

House Bill 1050 (AS PASSED HOUSE AND SENATE)

By: Representatives Benton of the 31<sup>st</sup> and Smith of the 113<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real  
2 estate appraisers, so as to add regulations for the establishment and maintenance of a real  
3 estate appraisal management company; to correct cross-references; to provide for related  
4 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 39A of Title 43 of the Official Code of Georgia Annotated, relating to real estate  
8 appraisers, is amended in Code Section 43-39A-1, relating to the short title, by revising said  
9 Code section as follows:

10 "43-39A-1.

11 This chapter shall be known and may be cited as the 'Real Estate Appraiser and Real Estate  
12 Appraisal Management Company Classification and Regulation Act.'"

13 SECTION 2.

14 Said chapter is further amended in Code Section 43-39A-2, relating to definitions relative to  
15 real estate appraisers, by revising said Code section as follows:

16 "43-39A-2.

17 As used in this chapter, the term:

18 (1) 'Analysis' means a study of real estate or real property other than one estimating  
19 value.

20 (2) 'Appraisal' or 'real estate appraisal' means an analysis, opinion, or conclusion  
21 prepared by an appraiser relating to the nature, quality, value, or utility of specified  
22 interests in, or aspects of, identified real estate. An appraisal may be classified by subject  
23 matter into either a valuation or an analysis.

24 (3)(A) 'Appraisal management company' means a person who for compensation:

- 25 (i) Functions as a third-party intermediary between an appraiser and a user of real  
 26 estate appraisal services;
- 27 (ii) Administers a network of appraisers performing real estate appraisal services as  
 28 independent contractors;
- 29 (iii) Enters into an agreement to provide real estate appraisal services with a user of  
 30 such services and one or more appraisers performing such services as independent  
 31 contractors; or
- 32 (iv) Otherwise serves as a third-party broker of appraisal services.
- 33 (B) 'Appraisal management company' does not include:
- 34 (i) Any person licensed to practice law in this state who orders an appraisal in  
 35 connection with a bona fide client relationship when that person directly contracts  
 36 with an appraiser;
- 37 (ii) Any person that contracts with an appraiser acting as an independent contractor  
 38 for the completion of a real estate appraisal assignment and who, upon the completion  
 39 of such an assignment, cosigns the appraisal report with the appraiser who is acting  
 40 as an independent contractor;
- 41 (iii) Any federal, state, or local government or any of its departments, agencies, or  
 42 authorities that order appraisals; or
- 43 (iv) Any person who orders an appraisal on behalf of any federal, state, or local  
 44 government or its departments, agencies, or authorities as an employee thereof.
- 45 (4) 'Appraisal management services' means services performed by an appraisal  
 46 management company and may include, but are not limited to, such activities as  
 47 recruiting appraisers, contracting with appraisers to perform real estate appraisal activity,  
 48 negotiating fees for appraisals, receiving appraisal orders and appraisal reports, and  
 49 submitting appraisal reports received from appraisers to clients.
- 50 ~~(3)~~(5) 'Appraisal report' means any communication, written or oral, of an appraisal. For  
 51 purposes of this chapter, the testimony of an appraiser dealing with the appraiser's  
 52 analyses, conclusions, or opinions concerning identified real property is deemed to be an  
 53 oral appraisal report.
- 54 (6) 'Appraisal review' means the act or process of developing and communicating an  
 55 opinion about the quality of another appraiser's work that was performed as part of an  
 56 appraisal assignment, except that an examination of an appraisal for grammatical,  
 57 typographical, or other similar errors shall not be an appraisal review.
- 58 ~~(4)~~(7) 'Appraisal Subcommittee' means the designees of the heads of the federal financial  
 59 institutions regulatory agencies established by the Federal Financial Institutions  
 60 Examination Council Act of 1978 (12 U.S.C. Section 3301, et seq.), as amended.

61 ~~(5)~~(8) 'Appraiser' means any person who, for a valuable consideration or with the intent  
 62 or expectation of receiving the same from another, engages in real estate appraisal  
 63 activity on any type of real estate or real property.

64 ~~(6)~~(9) 'Appraiser classification' means any category of appraiser which the board creates  
 65 by designating criteria for qualification for such category and by designating the scope  
 66 of practice permitted for such category, including the registration of real estate appraisal  
 67 management companies.

68 (10) 'Appraiser panel' means a group of independent appraisers selected to perform an  
 69 appraisal valuation or analysis for an appraisal management company.

70 ~~(7)~~(11) 'Board' means the Georgia Real Estate Appraisers Board established pursuant to  
 71 the provisions of this chapter.

72 ~~(8)~~(12) 'Certified appraisal' or 'certified appraisal report' means an appraisal or appraisal  
 73 report given, signed, and certified as such by a certified real estate appraiser. A certified  
 74 appraisal or appraisal report represents to the public that it meets the appraisal standards  
 75 defined in this chapter.

76 (13) 'Client' means any person who enters into an agreement with an appraiser or an  
 77 appraisal management company for the performance of real estate appraisal activity.

78 ~~(9)~~(14) 'Commission' means the Georgia Real Estate Commission created in Code  
 79 Section 43-40-2.

80 ~~(10)~~(15) 'Commissioner' means the real estate commissioner.

81 (16) 'Controlling person' means:

82 (A) An owner, officer, or director of a corporation, partnership, or other business entity  
 83 seeking to offer appraisal management services in this state;

84 (B) An individual employed, appointed, or authorized by an appraisal management  
 85 company who has the authority to enter into a contractual relationship with other  
 86 persons for the performance of appraisal management services and has the authority to  
 87 enter into agreements with appraisers for the performance of appraisals; or

88 (C) An individual who possesses, directly or indirectly, the power to direct or cause the  
 89 direction of the management or policies of an appraisal management company.

90 ~~(11)~~(17) 'Evaluation assignment' means an engagement for which an appraiser is  
 91 employed or retained to give an analysis, opinion, or conclusion that relates to the nature,  
 92 quality, or utility of identified real estate or identified real property.

93 ~~(12)~~(18) 'Federally related transaction' means any real estate related financial transaction  
 94 which (A) a federal financial institutions regulatory agency or the Resolution Trust  
 95 Corporation engages in, contracts for, or regulates; and (B) requires the services of an  
 96 appraiser.

97 ~~(13)~~(19) 'Independent appraisal assignment' means an engagement for which an appraiser  
 98 is employed or retained to act, or would be perceived by third parties or the public as  
 99 acting, as a disinterested third party in rendering an unbiased analysis, opinion, or  
 100 conclusion relating to the nature, quality, value, or utility of identified real estate or  
 101 identified real property.

102 (20) 'Owner' means any person who owns 5 percent or more of an appraisal management  
 103 company.

104 (21) 'Person' means an individual, partnership, limited liability company, limited  
 105 partnership, corporation, association, or any other legal or commercial entity.

106 ~~(14)~~(22) 'Real estate' means condominiums and leaseholds as well as any other interest  
 107 or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether  
 108 the real estate is situated in this state or elsewhere. Such term also includes any structure  
 109 or structures equipped with the necessary service connections and made so as to be  
 110 readily moveable as a unit or units when such a structure is affixed to land.

111 ~~(15)~~(23) 'Real estate appraisal activity' means the act or process of valuation of real  
 112 estate or real property and preparing an appraisal report.

113 ~~(16)~~(24) 'Real estate related financial transaction' means any transaction involving:

114 (A) The sale, lease, purchase, or exchange of or investment in real estate or real  
 115 property or the financing thereof;

116 (B) The refinancing of real estate or real property; and

117 (C) The use of real estate or real property as security for a loan or investment,  
 118 including mortgage backed securities.

119 ~~(17)~~(25) 'Real property' means one or more defined interests, benefits, and rights inherent  
 120 in the ownership of real estate.

121 ~~(18)~~(26) 'Specialized services' means services, other than independent appraisal  
 122 assignments which are performed by an appraiser. Specialized services may include  
 123 marketing, financing, and feasibility studies; valuations; analyses; and opinions and  
 124 conclusions given in connection with activities such as real estate brokerage, mortgage  
 125 banking, real estate counseling, and real estate tax counseling.

126 ~~(19)~~(27) 'State' means any state, district, territory, possession, or province of the United  
 127 States or Canada and any sovereign nation or any political subdivision of such sovereign  
 128 nation.

129 ~~(20)~~(28) 'Valuation' means an estimate of the value of real estate or real property.

130 ~~(21)~~(29) 'Valuation assignment' means an engagement for which an appraiser is  
 131 employed or retained to give an analysis, opinion, or conclusion that estimates the value  
 132 of an identified parcel of real estate or identified real property at a particular point in  
 133 time."

134 **SECTION 3.**

135 Said chapter is further amended in Code Section 43-39A-6, relating to records maintained  
 136 by the Georgia Real Estate Appraisers Board, by revising subsection (b) as follows:

137 "(b) The board shall maintain records so that it may certify the history of appraisers or any  
 138 person issued an appraisal management company registration under this chapter for a  
 139 period of up to five years preceding the date of certification. The board may certify the  
 140 classification history of an appraiser or appraisal management company based on electronic  
 141 data that it maintains. When that electronic data is derived from a paper record, upon  
 142 converting the information on the paper record to electronic form and after verification of  
 143 the electronic record, the board may:

- 144 (1) Properly destroy the paper record; or  
 145 (2) Retain the paper record for a period of time determined by the board."

146 **SECTION 4.**

147 Said chapter is further amended in Code Section 43-39A-7, relating to application for real  
 148 estate appraiser classification, by revising said Code section as follows:

149 "43-39A-7.

150 (a) Any person desiring to act as a real estate appraiser must file an application for an  
 151 appraiser classification with the board. All original and subsequent applications filed with  
 152 the board shall be in such form and detail as the board shall prescribe, setting forth the  
 153 following:

- 154 (1) The name and address of the applicant and the name under which the applicant  
 155 intends to conduct business;  
 156 (2) The place or places, including the city with the street and street number, if any, where  
 157 the business is to be conducted; and  
 158 (3) Such other information as the board shall require.

159 (b)(1) No person shall directly or indirectly engage or attempt to engage in business as  
 160 an appraisal management company, directly or indirectly engage or attempt to perform  
 161 appraisal management services, or advertise or hold itself out as engaging in or  
 162 conducting business as an appraisal management company without first obtaining a  
 163 registration issued by the board.

164 (2) The registration required by paragraph (1) of this subsection shall, at a minimum,  
 165 include the following:

- 166 (A) Name of the entity seeking registration;  
 167 (B) Business address of the entity seeking registration which must be located and  
 168 maintained within this state;  
 169 (C) Telephone contact information of the entity seeking registration;

- 170 (D) If the entity is not a corporation that is domiciled in this state, the name and contact  
 171 information for the company's agent for service of process in this state;
- 172 (E) The name, address, and contact information for any individual or any corporation,  
 173 partnership, or other business entity that owns 5 percent or more of the appraisal  
 174 management company;
- 175 (F) The name, address, and contact information for a designated controlling person to  
 176 be the primary communication source for the board;
- 177 (G) A certification that the entity has a system and process in place to verify that a  
 178 person being added to the appraiser panel of the appraisal management company for  
 179 appraisal services to be performed in Georgia holds a license or certification in good  
 180 standing in Georgia pursuant to this chapter;
- 181 (H) A certification that the entity has a system in place to review the work of all  
 182 appraisers who are performing real estate appraisal services for the appraisal  
 183 management company on a periodic basis to validate that the real estate appraisal  
 184 services are being conducted in accordance with the standards for real estate appraisals  
 185 established by the board;
- 186 (I) A certification that the entity maintains a detailed record of each service request that  
 187 it receives for appraisal services within the State of Georgia and the name, address, and  
 188 telephone number of the appraiser who performs the requested real estate appraisal  
 189 services for the appraisal management company;
- 190 (J) An irrevocable consent to service of process; and
- 191 (K) Any such other information as the board shall require.
- 192 (3) The board shall issue a unique registration number to each appraisal management  
 193 company.
- 194 (4) The board shall publish annually a list of the appraisal management companies that  
 195 have registered pursuant to this chapter and have been issued a registration number.
- 196 (5) An appraisal management company shall be required to disclose the registration  
 197 number on each engagement letter utilized in assigning an appraisal request for real estate  
 198 appraisal assignments within the State of Georgia.
- 199 (b.1) Any employee or independent contractor of an appraisal management company who  
 200 performs appraisal review services must be an individual who holds a valid appraiser  
 201 license or certification issued pursuant to this chapter.
- 202 ~~(b)~~(c) Notwithstanding any provision of Article 4 of Chapter 18 of Title 50 to the contrary,  
 203 all applications, including supporting documents and other personal information submitted  
 204 by applicants, and classified appraisers, and appraisal management companies as part of  
 205 an application filed with the board, shall be confidential. The board shall deem as public  
 206 records the following information and shall make such information reasonably available

207 for inspection by the general public: an appraiser's name, classification number and status,  
 208 business name, business address, business telephone number, type of classification held,  
 209 and term of classification; the fact that an appraiser has or has not received a disciplinary  
 210 sanction; and such other information pertaining to the classification of an appraiser or  
 211 approval of a school, course, or instructor as the board may determine by rule."

212 **SECTION 5.**

213 Said chapter is further amended in Code Section 43-39A-11, relating to fees associated with  
 214 real estate appraisers classification, by adding a new subsection to read as follows:

215 "(n) The board may through the establishment of rules or regulations require that an  
 216 applicant for registration as a real estate appraisal management company provide proof of  
 217 financial responsibility in the form of a surety bond, cash or property bond, or trust or  
 218 escrow account to secure faithful performance of the standards required of an appraisal  
 219 management company under this chapter."

220 **SECTION 6.**

221 Said chapter is further amended in Code Section 43-39A-13, relating to the powers of the  
 222 Georgia Real Estate Appraisers Board, by revising said Code section as follows:

223 "43-39A-13.

224 The board, through its rules and regulations, shall have the full power to regulate the  
 225 issuance of appraiser classifications and registrations, to discipline appraisers in any  
 226 manner permitted by this chapter, to establish qualifications for appraiser classifications  
 227 and registrations consistent with this chapter, to regulate approved courses, and to establish  
 228 standards for real estate appraisals, and to establish standards consistent with this chapter  
 229 for appraisal management companies operating within the State of Georgia. Except for  
 230 conducting an investigation as provided in this chapter, the board is authorized to enter into  
 231 such contracts as are necessary to carry out its duties under this chapter; provided,  
 232 however, the board may enter into contracts to assist it in the conduct of investigations  
 233 authorized by this chapter only whenever it needs special legal or appraisal expertise or  
 234 other extraordinary circumstances exist. Whenever the board contracts to perform such  
 235 investigative functions, any such contractor working on an investigation authorized by this  
 236 chapter shall be under the supervision of the board or a duly authorized representative of  
 237 the board. Any contractor used by the board shall be knowledgeable in the work area for  
 238 which such contractor is retained. A contractor shall not be empowered to determine the  
 239 disposition of any investigation nor to make any discretionary decision that the board is  
 240 authorized by law to make. Notwithstanding any other provision of law, the board is  
 241 authorized to retain all funds received as collection fees for use in defraying the cost of

242 collection of fees required under this chapter. Any such funds not expended for this  
 243 purpose in the fiscal year in which they are generated shall be deposited in the state  
 244 treasury; provided, however, that nothing in this Code section shall be construed so as to  
 245 allow the board to retain any funds required by the Constitution to be paid into the state  
 246 treasury; provided, further, that the board shall comply with all provisions of Part 1 of  
 247 Article 4 of Chapter 12 of Title 45, the 'Budget Act,' except Code Section 45-12-92, prior  
 248 to expending any such funds."

249 **SECTION 7.**

250 Said chapter is further amended by adding a new Code section to read as follows:

251 "43-39A-14.1.

252 (a) Each appraisal management company applying to the board for registration shall  
 253 designate a controlling person who shall be the main contact for all communication  
 254 between the board and the appraisal management company and who shall also serve as the  
 255 person upon whom service of process may be made in a proceeding against the appraisal  
 256 management company.

257 (b) The controlling person designated pursuant to subsection (a) of this Code section shall:

258 (1) Have never had a license or certificate to act as an appraiser refused, denied,  
 259 canceled, surrendered in lieu of a pending revocation, or revoked in any state;

260 (2) Be of good moral character, as determined by the board; and

261 (3) Submit to a background investigation, as determined by the board.

262 (c) Each appraisal management company shall certify to the commission on an annual  
 263 basis that it:

264 (1) Includes instructions to appraisers in letters of engagement to decline the assignment  
 265 in the event the appraiser is not geographically competent or the assignment falls outside  
 266 the appraiser's scope of practice restrictions;

267 (2) Has a system in place to verify that the appraiser receiving the assignment holds a  
 268 license or registration in good standing in the State of Georgia and has not had a license  
 269 or certificate to act as an appraiser refused, denied, canceled, surrendered in lieu of a  
 270 pending revocation, or revoked in any state;

271 (3) Has a system in place to perform an appraisal review on a periodic basis of the work  
 272 of all appraisers who are performing appraisals for the appraisal management company  
 273 to validate that the appraisals are being conducted in accordance with the standards for  
 274 real estate appraisals established by the board;

275 (4) Has reported to the board the results of any appraisal reviews in which an appraisal  
 276 is found to be substantially noncompliant with the standards for real estate appraisals  
 277 established by the board or any state or federal laws pertaining to appraisals; and

278 (5) Maintains records required to be kept by the board that the board is authorized to  
279 inspect.

280 (d) An appraisal management company doing business in this state shall not:

281 (1) Knowingly employ any person directly involved in real estate appraisal or appraisal  
282 management services who does not hold a license or registration in good standing in the  
283 State of Georgia or who has had a license or certificate to act as an appraiser refused,  
284 denied, canceled, surrendered in lieu of a pending revocation, or revoked in any state;

285 (2) Knowingly enter into any independent contractor arrangement, whether in oral,  
286 written, or other form, with any person for the performance of real estate appraisal  
287 services who does not hold a license or registration in good standing in the State of  
288 Georgia or who has had a license or certificate to act as an appraiser refused, denied,  
289 canceled, surrendered in lieu of a pending revocation, or revoked in any state;

290 (3) Knowingly enter into any contract, agreement, or other business relationship directly  
291 involved with the performance of real estate appraisal or appraisal management services,  
292 whether in oral, written, or any other form, with any entity that employs, has entered into  
293 an independent contract arrangement, or has entered into any contract, agreement, or  
294 other business relationship, whether in oral, written, or any other form, with any person  
295 who does not hold a license or registration in good standing in the State of Georgia or  
296 who has had a license or certificate to act as an appraiser refused, denied, canceled,  
297 surrendered in lieu of a pending revocation, or revoked in any state;

298 (4) Request or require an appraiser to modify any aspect of an appraisal report unless the  
299 modification provides additional information about the basis for a valuation, corrects  
300 objective factual errors in the appraisal report, or provides additional information within  
301 the appraisal regarding additional sales provided through an established dispute process;

302 (5) Require an appraiser to prepare an appraisal if the appraiser, in the appraiser's own  
303 independent professional judgment, believes the appraiser does not have the necessary  
304 expertise for the assignment or for the specific geographic area and has notified the  
305 appraisal management company and declined the assignment;

306 (6) Require an appraiser to prepare an appraisal under a time frame that the appraiser,  
307 in the appraiser's own professional judgment, believes does not afford the appraiser the  
308 ability to meet all the relevant legal and professional obligations, and the appraiser has  
309 notified the appraisal management company and declined the assignment;

310 (7) Prohibit or inhibit legal or other allowable communication between the appraiser  
311 and a lender, a real estate licensee, or any other person who the appraiser, in the  
312 appraiser's own professional judgment, believes possesses information that would be  
313 relevant;

314 (8) Knowingly require an appraiser to take any action that does not comply with any  
315 provision of this chapter and the rules and regulations promulgated by the board or any  
316 assignment conditions and certifications required by the client for whom an appraisal is  
317 being performed;

318 (9) Make any portion of its fee or the appraiser's fee contingent on a predetermined or  
319 favorable outcome including, but not limited to, a loan closing or a specific dollar amount  
320 being determined by the appraiser in the appraisal;

321 (10) Prohibit any appraiser who is part of an appraiser panel from recording the fee that  
322 the appraiser was paid by the appraisal management company for the performance of the  
323 appraisal within the appraisal report that is submitted by the appraiser to the appraisal  
324 management company;

325 (11) Alter, modify, or otherwise change a completed appraisal report submitted by an  
326 appraiser by:

327 (A) Permanently removing the appraiser's signature or seal; or

328 (B) Adding information to or removing information from the appraisal report with an  
329 intent to change the valuation conclusion; or

330 (12) Require an appraiser to provide the appraisal management company with the  
331 appraiser's digital signature or seal; provided, however, that an appraiser shall not be  
332 prohibited from voluntarily providing such appraiser's digital signature or seal to another  
333 person.

334 (e) An appraisal management company shall separately state to the client the fees paid to  
335 an appraiser for appraisal services and the fees charged by the appraisal management  
336 company for services associated with the management of the appraisal process, including  
337 procurement of the appraiser's services.

338 (f) An appraisal management company shall be held responsible for the actions of its  
339 controlling person affiliated with such appraisal management company should such  
340 controlling person violate any of the provisions of this chapter or any rules and regulations  
341 promulgated by the board or engage in any unfair trade practices.

342 (g) Whenever the board initiates an investigation as provided for in Code Section  
343 43-39A-22 and the evidence gathered in the investigation reveals an apparent violation by  
344 the appraisal management company of this chapter, of the rules and regulations  
345 promulgated by the board, or of any unfair trade practices, including, but not limited to,  
346 those listed in this Code section, the board shall file notice of hearing in accordance with  
347 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Whenever an appraisal  
348 management company has been found guilty of a violation of any provision of this chapter  
349 or the rules and regulations promulgated by the board, or of any unfair trade practices after

350 such hearing has taken place, the board shall have the power to take any one or more of the  
 351 following actions:

- 352 (1) Refuse to grant or renew registration to an appraisal management company;  
 353 (2) Suspend or revoke the registration of an appraisal management company;  
 354 (3) Impose a fine not to exceed \$1,000.00 for each violation of this chapter, of the rules  
 355 and regulations promulgated by the board, or of any unfair trade practices with fines for  
 356 multiple violations limited to \$5,000.00 in any one disciplinary proceeding or such other  
 357 amount as parties agree; or  
 358 (4) Take other appropriate disciplinary action as established by the rules and regulations  
 359 of the board."

360 **SECTION 8.**

361 Said chapter is further amended in Code Section 43-39A-21, relating to hearings for  
 362 sanctions of appraisers, by revising subsections (a) and (b) as follows:

363 "(a) Before the board shall impose on any appraiser or appraisal management company any  
 364 sanction permitted by this chapter, it shall provide an opportunity for a hearing for such  
 365 appraiser or appraisal management company in accordance with Chapter 13 of Title 50, the  
 366 'Georgia Administrative Procedure Act.' Unless otherwise agreed to by the board, all such  
 367 hearings shall be held in the county of domicile of the board.

368 (b) If any appraiser, appraisal management company, or applicant fails to appear at any  
 369 hearing after reasonable notice, the board may proceed to hear the evidence against such  
 370 appraiser, appraisal management company, or applicant and take action as if such  
 371 appraiser, appraisal management company, or applicant had been present. A notice of  
 372 hearing, initial or proposed decision, or final decision of the board in a disciplinary  
 373 proceeding shall be served upon the appraiser, appraisal management company, or  
 374 applicant by personal service or by certified mail or statutory overnight delivery, return  
 375 receipt requested, to the last known address of record with the board. If such material is  
 376 returned marked 'unclaimed' or 'refused' or is undeliverable and if the appraiser, appraisal  
 377 management company, or applicant cannot, after diligent effort, be located, the real estate  
 378 commissioner shall be deemed to be the agent for such appraiser, appraisal management  
 379 company, or applicant for the purposes of this Code section, and service upon the real  
 380 estate commissioner shall be deemed service upon the appraiser, appraisal management  
 381 company, or applicant."

382 **SECTION 9.**

383 Said chapter is further amended in code section 43-39A-22, relating to investigations of  
 384 appraisers, by revising subsections (a), (d), and (e) as follows:

385 "(a) The board may, upon its own motion, and shall, upon the sworn written request of any  
386 person, investigate the actions of any appraiser, applicant, appraisal management company,  
387 or school approved by the board; provided, however, that, whenever a request for  
388 investigation involves an appraisal report which varies from a sales, lease, or exchange  
389 price by 20 percent or less, or, if the appraiser or appraisal management company is acting  
390 as a tax consultant, which varies from the tax assessor's value by 20 percent or less, the  
391 board may in its discretion decline to conduct an investigation. Except for investigations  
392 of applicants for appraiser classifications, investigations of allegations of fraudulent  
393 conduct, or investigations of possible violations of this chapter which have been litigated  
394 in the courts or arise from litigation in the courts, the board shall not initiate an  
395 investigation on its own motion or upon a sworn written request for investigation unless  
396 the act or acts which may constitute a violation of this chapter occurred within five years  
397 of the initiation of the investigation."

398 "(d) The results of all investigations shall be reported only to the board or to the  
399 commissioner and the records of such investigations shall not be subject to subpoena in  
400 civil actions. Records of investigations shall be kept by the board and no part of any  
401 investigative record shall be released for any purpose other than a hearing before the board  
402 or its designated hearing officer, review by another law enforcement agency or lawful  
403 licensing authority upon issuance of a subpoena from such agency or authority or at the  
404 discretion of the board upon an affirmative vote of a majority of the quorum of the board,  
405 review by the appraiser, ~~or applicant,~~ or appraisal management company who is the subject  
406 of the notice of hearing after its service, review by the board's legal counsel, or an appeal  
407 of a decision by the board to a court of competent jurisdiction; provided, however, if an  
408 investigation authorized by this chapter results in the board's filing a notice of hearing or  
409 entering into settlement discussions with a member of the board, the commissioner shall  
410 immediately notify the Governor or the Governor's legal counsel of such action by the  
411 board. After service of a notice of hearing, the appraiser, ~~or applicant,~~ or appraisal  
412 management company who is the subject of the notice of hearing shall have a right to  
413 obtain a copy of the investigative record pertaining to the hearing.

414 (e) Whenever the board revokes or suspends for more than 60 days an appraiser  
415 classification or a school approval or whenever an appraiser, appraisal management  
416 company, or an approved school surrenders an appraiser classification or an approval to the  
417 board after the board has filed a notice of hearing, the board shall publish the name of such  
418 appraiser, appraisal management company, or approved school in its official newsletter."

419 **SECTION 10.**

420 This Act shall become effective 90 days after the date this Act is approved by the Governor  
421 or becomes law without such approval.

422 **SECTION 11.**

423 All laws and parts of laws in conflict with this Act are repealed.